

REMARKS

Upon entry of this paper, claims 1, 12, and 24 have been amended, claim 14 has been previously canceled, and no claims have been added as new claims. Thus, claims 1-13 and 15-28 are presently pending in this application. No new matter has been added.

Claim Rejections under 35 U.S.C. §102

Claims 1, 3-10, 12-13, 15-22, and 24-28

Claims 1, 3-10, 12-13, 15-22, and 24-28 were rejected under 35 U.S.C. §102 as being anticipated by admitted prior art. This anticipatory rejection is respectfully traversed. However, in an effort to move the present application toward issuance of a Notice of Allowance, Applicant has amended independent claims 1, 12, and 24 to attempt to more clearly claim that which Applicant believes to be the invention of the pending application. Additional remarks are accordingly provided below.

The Examiner has indicated that this rejection “relies upon an interpretation of ‘sub-band’ that may be broader than Applicant intends. As a way to obviate this rejection, Examiner suggests adjustment to the language of independent claim 1 by adding further distinguishing limitations of Applicant’s ‘sub-band’ so that other interpretations of sub-band do not apply.” *See* OA, page 3.

Applicant has amended claims 1, 12, and 24 to indicate that, “wavelengths of the optical signal of the first sub-band are non-overlapping with wavelengths of the optical signal of the second sub-band.” *See* amended claims. In addition, claim 12 has been further amended to indicate, “a first sub-band supporting only a working path and a second sub-band supporting only a protect path . . .” *See* claim 12. As such, the disclosure of the admitted prior art more clearly does not anticipate that which Applicant believes to be his invention.

Applicant therefore respectfully submits that the admitted prior art fails to disclose every characteristic of Applicant’s claims 1, 12, and 24. Dependent claims 2-11, 13, 15-23, and 25-28

are also allowable based on their dependency on the aforementioned independent claims in addition to their own claimed characteristics. Applicant further submits that all pending claims of the present invention are allowable.

Accordingly, Applicant requests reconsideration and withdrawal of this rejection.

Claim Rejections under 35 U.S.C. §103

Claims 11 and 23

Claims 11 and 23 were rejected under 35 U.S.C. §103 as allegedly being unpatentable over the admitted prior art. This rejection is respectfully traversed. However, in an effort to move the present application toward issuance of a Notice of Allowance, Applicant has amended independent claims 1, 12, and 24 to attempt to more clearly claim that which Applicant believes to be the invention of the pending application. Additional remarks are accordingly provided below.

The Examiner states that, “the admitted prior art does not disclose: The sub-assembly of claim 1, wherein the first and second modules are comprised of: dispersion compensation modules.” *See* OA, paragraph 6. Applicant has amended claim 1, which characterizes the sub-assembly of claim 1, from which claims 11 and 23 depend. Such amendment has further clarified the invention to be directed to sub-bands that are not overlapping. Accordingly, as discussed previously, the admitted prior art does not disclose the sub-assembly of claim 1 in a way that makes the resulting combination with claims 11 or 23 unpatentable.

Said differently, not all elements claimed in the combination of claims 1 and 11 and claims 1 and 23 are taught or suggested by the admitted prior art. Accordingly, Applicant respectfully requests reconsideration and withdrawal of this rejection.

Claims 1-13 and 15-28

Claims 1-13 and 15-28 were rejected under 35 U.S.C. §103 as allegedly being unpatentable over the admitted prior art in view of Ramaswami, *et al.* This rejection is respectfully traversed. However, in an effort to move the present application toward issuance of a Notice of Allowance, Applicant has amended independent claims 1, 12, and 24 to attempt to more clearly claim that which Applicant believes to be the invention of the pending application. Additional remarks are accordingly provided below.

As indicated by the Examiner, the present rejection is based on the prior application of the Examiner's interpretation of the term "sub-band" in the claims. Applicant has amended claims 1, 12, and 24, from which the rejected claims depend, to include clarifying language with regard to the interpretation of the term "sub-band". As such, Applicant respectfully submits that the combination of the admitted prior art with Ramaswami fails to teach or suggest all elements of the claimed invention. Specifically, the combined references fail to teach or suggest an optical sub-assembly for processing an optical signal . . . wherein wavelengths of the optical signal of the first sub-band are non-overlapping with wavelengths of the optical signal of the second sub-band." *See* claim 1, *see also* claims 12 and 24. Accordingly, Applicant respectfully submits that the pending claims are allowable over the applied art.

Applicant requests reconsideration and withdrawal of this rejection.



CONCLUSION

RECEIVED

OCT 15 2004

Technology Center 2600

In view of the foregoing, it is respectfully submitted that this application is now in condition for allowance. Applicant courteously solicits allowance of the claims in the form of a Notice of Allowance. Should there be any outstanding issues of patentability following the entry of this response, a telephone interview is respectfully requested to resolve such issues.

Please charge any shortage or credit any overpayment of fees to our Deposit Account No. 12-0080. In the event that a petition for an extension of time is required to be submitted herewith, and the requisite petition does not accompany this response, the undersigned hereby petitions under 37 C.F.R. §1.136(a) for an extension of time for as many months as are required to render this submission timely. Any fee due is authorized to be charged to the aforementioned Deposit Account. A duplicate copy of this sheet is enclosed.

Dated: October 5, 2004

Respectfully submitted,

By

Sean D. Detweiler

Registration No.: 42,482

LAHIVE & COCKFIELD, LLP

28 State Street

Boston, Massachusetts 02109

(617) 227-7400

(617) 742-4214 (Fax)

Attorney/Agent For Applicant